
Liberal Translation of Govt Notification dated 20th Sept, 2019 restraining the registration of agreement for sale of flats of building which are not registered with MahaRERA. Translation is of done by Maharashtra Societies Welfare Association(MahaSeWA) headed by CA. Ramesh Prabhu. Contact number: 9820106768 / rsprabhu13@gmail.com

Please contact for any details or to purchase a book on Self-Re-Development- Step by Step Guidelines prepared by Study Group of MahaSeWA headed by Hon'ble Shri. Subhash Lalla, former Principle Secretary to Chief Minister of Maharashtra on: 022-42551414/25 or send an email on : mswa.hsg@gmail.com or info@mswa.co.in

In respect of to do proceedings of registration of documents according to item (i) in Sub Rule (5) of Rule 44 of the Registration Rules, 1961 in view of the provision in Section 3 of the Real Estate (Regulation and Development) Act, 2016.

GOVERNMENT OF MAHARASHTRA
REVENUE AND FOREST DEPARTMENT
Government Circular No. Stamp-2017/2453/Pra.Kra.410/M-1 (Policy)
Madam Cama Road, Hutatma Rajguru Chowk,
Mantralaya, Mumbai – 400 032.
Date : 20th September, 2019

READ : Letter No. Pra. Kra.Ka.4/Pra. Kra. 330/2017/908, Dated 31st July, 2017 of Inspector General of Registration and Controller of Stamps.

INTRODUCTION ;-

According to request made by the Inspector General of Registration and Controller of Stamps by the letter under reference, the matter to issue explanatory instructions regarding whether the registration of the sale agreements or purchase deeds of the Plot, Apartment or Building in the ongoing projects other than the projects which are exempted according to sub section (2) of section 3 of the Real Estate and Property (Regulation and Development) Act, 2016, is become prohibited or not according to sub section (1) in the above mentioned section? and thereby whether the item in sub rule (1) of rule 44 of the Registration Rules, 1961 is applicable to the section of above mentioned RERA Law or not? was under consideration of the Government.

GOVERNMENT CIRCULAR :-

1. Section 3 of the Real Estate (Regulation and Development) Act, 2016 is as follow :-

Section – 3.

(1) No promoter shall advertise, market book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act :

Provided that, projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act :

Provided further that, if the Authority thinks necessary, in the interest of allottees, for projects which are developed beyond the planning area but with the requisite permission of the local authority, it may, by order, direct the promoter of such project to register with the Authority, and the provisions of this Act or the rules and regulations made thereunder, shall apply to such projects from that stage of registration.

(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required –

(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases:

Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act;

(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;

(c) for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project.

Explanation – For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a standalone real estate project, and the promoter shall obtain registration under this Act for each phase separately.

2. Whereas, there is provision in Rule 44 of the Registration Rules 1961 as to which items that should be verified by the Sub Registrar before registering the instrument.

It is mentioned in item (i) in sub-rule (1) of the above mentioned rule 44 as follow –

44. Certain requirements to be verified before accepting a document for registration –

(1) Before accepting any document for registration, a registering officer may not concern himself with its validity, but shall ascertain –

(a)

(b)

(i) that if the transaction which is intended by the document, is prohibited by any existing Act of Central or State Government, then the true copy of requisite permission or No Objection Certificate from the Competent Authority under the said act, has been attached along with the document and that the document is not written in contradiction with any vital term or condition mentioned in that permission or No Objection Certificate.

3. While seeing the provision in section 3 of the Real Estate (Regulation and Development) Act, 2016 as mentioned above and similarly the item in sub rule (1) of Rule 44 of the Registration Rules, 1961, the explanatory instructions are issued as follow;-

Whereas, excluding the projects exempted by sub section (2) of section 3 of the Real Estate (Regulation and Development) Act, 2016, if the ongoing projects and for which completion certificate has not been issued are registered or if not registered with RERA Authority under sub-section (1) of section 3, then are prohibited from advertising, marketing, booking, selling or offer for selling or invite persons for purchasing in any manner for any plot, apartment or building or saleable real estate in the above mentioned project.

Therefore, the item (i) in sub rule (1) of the Registration Rule, 1961 is applicable for the registration of the transfer deeds of such saleable real estate in the real estate projects which are not registered or registered with the Real Estate Authority.

The said circular is available on the Government of Maharashtra website www.maharashtra.gov.in , its code number is 201909201918015719. This order is issued with digital signature.

By Order and in the name of the Governor of Maharashtra.

(Pritamkumar Jawale)

Desk Officer, Government of Maharashtra.

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